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10/766,593	01/28/2004	Berthold Berens	A-3878	3879
24131	7590	05/18/2006		
LERNER GREENBERG STEMER LLP P O BOX 2480 HOLLYWOOD, FL 33022-2480			EXAMINER NGUYEN, PHONG H	
			ART UNIT 3724	PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/766,593
Filing Date: January 28, 2004
Appellant(s): BERENS ET AL.

**MAILED
MAY 18 2006
GROUP 3700**

Alfred K. Dassler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/21/2006 appealing from the Office action mailed 11/04/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,106,453	Sinn et al.	08-2000
US Pub.2003/0045412 A1	Schulz et al.	03-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 1, 3 and 4 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Sinn et al. (6,106,453), hereinafter Sinn, in view of Schulz et al. (US Pub 2003/0045412), hereinafter Schulz.

Sinn teaches a punching and scoring backing plate 7 having a groove. Sinn does not teach the material of the plate. Schulz teaches the use of aluminum alloy and anodizing aluminum for wear resistance. See paragraphs [79-80]. Therefore, it would have been obvious to one skilled in the art to make the punching and scoring backing plate of Sinn out of aluminum alloy and anodizing the plate for wear resistance as taught by Schulz.

It is to be noted that providing a groove having a residual thickness of 0.1mm, an aluminum plate having a hardness of 350 HV 0.05 and the anodized layer of 10µm is routine skilled in the art since it depends on how deep the score is desired and how many cycles of use of the plate are desired.

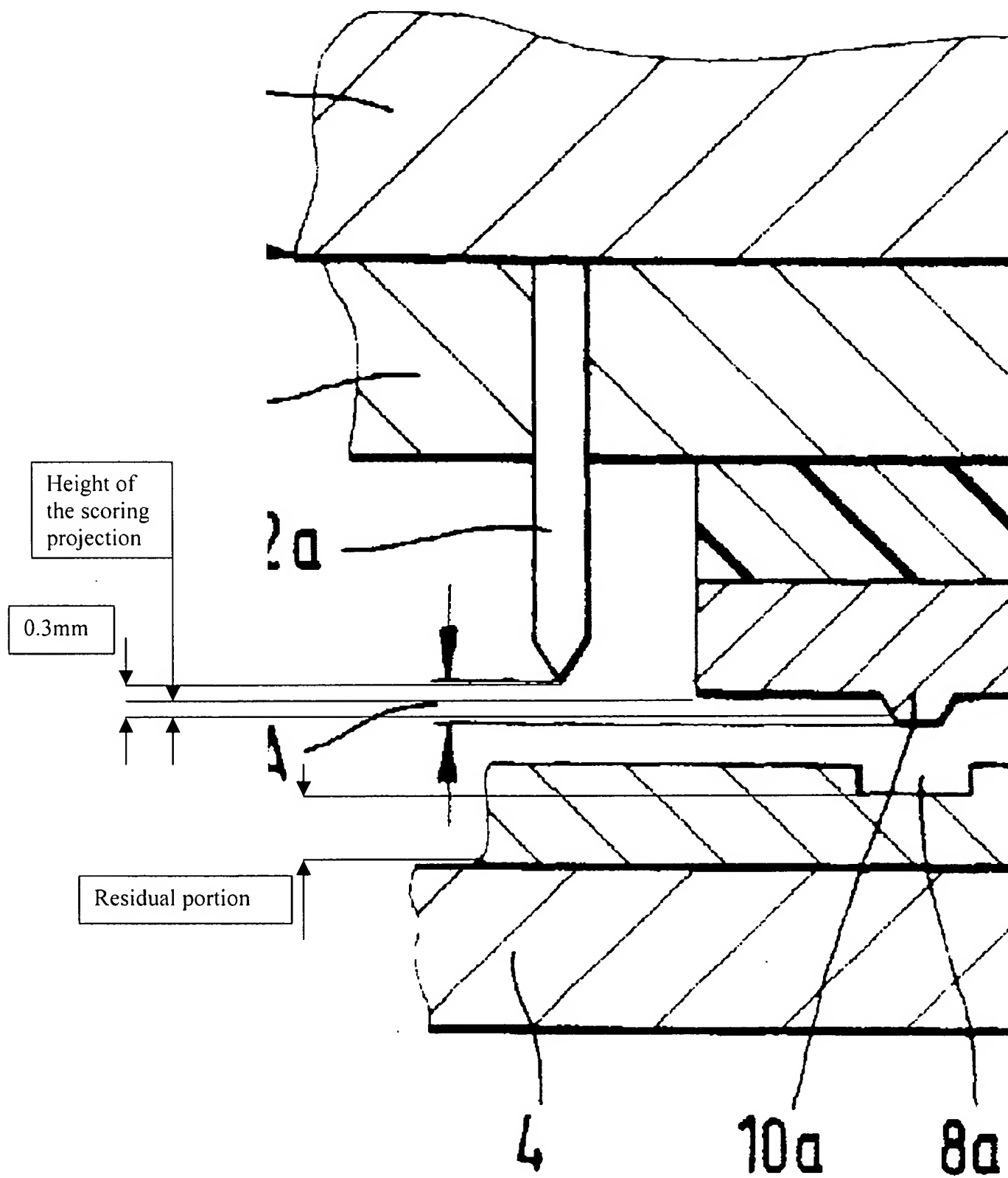
(10) Response to Argument

Appellant argues that since Sinn does not teach the residual thickness of the score groove being at least 0.1 millimeter (mm) and the aluminum scoring plate, the rejection of claims 1, 3 and 4 should be withdrawn. This argument is not persuasive for the following reasons.

Appellant further contends that the dimension of the residual thickness of the scoring groove is advantageous with regard to a use of the punching and scoring backing plates as in cylinder covers, and providing such a groove having a thickness of 0.1mm is not routine skill in the art. Firstly, it should be noted that Appellant does not claim any specific shape for the backing plate. The only material type claimed is for the backing plate to be aluminum with a hard anodized top layer. Therefore, Sinn's backing plate and the modified backing plate read

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over the Appellant's backing plate. It should be noted that Sinn alone is not relied upon for the aluminum with a hard anodized top layer. Schulz is used to teach the need for a wear resistant backing layer with aluminum hard top layer. Secondly, the backing plate of Sinn can be used in both a flatbed punching and scoring machine and a rotary punching and scoring machine. See col. 1, lines 10-15. Thirdly, changing dimension of parts in a machine to accommodate workpieces with different dimensions is routine skill in the art. Therefore, it would have been obvious to one skilled in the art to provide the residual thickness of the scoring plate at least 0.1mm to accommodate workpieces with different dimensions. Finally, Sinn teaches the residual thickness of the score groove is at least 0.3 mm which is within the claimed dimension (at least 0.1mm). Regarding Figs. 1 and 2 and col. 4, lines 36-43, the distance (A) between the tip of scoring projection 10a and punching blade 2a is 0.3mm. The height of the scoring projection 10a is about a half of the distance A which is 0.15mm. See the attached Fig. 2. The depth of the scoring groove 8a is at least equal to the height of the scoring projection 10a, which is 0.15mm. The residual portion of the scoring groove is twice as thick as the depth of the scoring groove, which is 0.3mm, which is within the claimed dimension of at least 0.1mm. Furthermore, it should be noted that claim 1 merely calls for a thickness of at least 0.1mm. Therefore, any thickness of greater would read on claim 1.



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
Appellant's argument that the wear resistance property is not improved by producing tools out of aluminum instead of steel is not persuasive. Schulz teaches a tool having a steel surface. See paragraph [0072]. Since the steel surface is a subject of weariness, Schulz put an anodized aluminum layer on the steel surface. Therefore, Schulz clearly teaches the wear resistant property of anodized aluminum. Since the backing plate of Sinn is made of steel, and thus is a subject of weariness, it would have been obvious to one skilled in the art to make the backing plate of Sinn out of anodize aluminum to increase its wear resistant property.

Appellant argues that since Schulz does not teach an aluminum plate and a score groove having a residual thickness of at least 0.1 millimeter the rejection of claims 1, 3 and 4 should be withdrawn. It is not persuasive.


Schulz is applied to teach the wear resistant property of an aluminum alloy but not the backing plate and its scoring groove. Therefore, Appellant's argument is not persuasive.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,


Phong Nguyen 

May 11, 2006


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